



General Assembly

January Session, 2005

Raised Bill No. 6613

LCO No. 3213

03213_____GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING THE PROCEDURES, DUTIES AND POWERS OF THE STATE ETHICS COMMISSION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 1-88 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (e) Any employee or member of the commission who, in violation of
5 this part, discloses information filed in accordance with [subparagraph
6 (B) or] subparagraph (F) of subdivision (1) of subsection (b) of section
7 1-83, shall be dismissed, if an employee, or removed from the
8 commission, if a member.

9 Sec. 2. Subsection (b) of section 1-88 of the general statutes is
10 repealed and the following is substituted in lieu thereof (*Effective from*
11 *passage*):

12 (b) Notwithstanding the provisions of subsection (a) of this section,
13 the commission may, after a hearing conducted in accordance with
14 sections 4-176e to 4-184, inclusive, upon the concurring vote of [seven]

15 six of its members, impose a civil penalty not to exceed ten dollars per
16 day upon any individual who fails to file any report, statement or
17 other information as required by this part. Each distinct violation of
18 this subsection shall be a separate offense and in case of a continued
19 violation, each day thereof shall be deemed a separate offense. In no
20 event shall the aggregate penalty imposed for such failure to file
21 exceed ten thousand dollars.

22 Sec. 3. Subsection (a) of section 1-82 of the general statutes is
23 repealed and the following is substituted in lieu thereof (*Effective from*
24 *passage*):

25 (a) (1) Upon the complaint of any person on a form prescribed by
26 the commission, signed under penalty of false statement, or upon its
27 own complaint, the commission shall investigate any alleged violation
28 of this part. Not later than five days after the receipt or issuance of
29 such complaint, the commission shall provide notice of such receipt or
30 issuance and a copy of the complaint by registered or certified mail to
31 any respondent against whom such complaint is filed and shall
32 provide notice of the receipt of such complaint to the complainant.
33 When the commission undertakes an evaluation of a possible violation
34 of this part prior to the filing of a complaint by the commission, the
35 subject of the evaluation shall be notified within five business days
36 after a commission staff member's first contact with a third party
37 concerning the matter.

38 (2) In the conduct of its investigation of an alleged violation of this
39 part, the commission shall have the power to hold hearings, administer
40 oaths, examine witnesses, receive oral and documentary evidence,
41 subpoena witnesses under procedural rules adopted by the
42 commission as regulations in accordance with the provisions of
43 chapter 54 to compel attendance before the commission and to require
44 the production for examination by the commission of any books and
45 papers which the commission deems relevant in any matter under
46 investigation or in question. In the exercise of such powers, the

47 commission may use the services of the state police, who shall provide
48 the same upon the commission's request. The commission shall make a
49 record of all proceedings conducted pursuant to this subsection. Any
50 witness summoned before the commission shall receive the witness fee
51 paid to witnesses in the courts of this state. During the investigation
52 the respondent shall have the right to appear and be heard and to offer
53 any information which may tend to clear him of probable cause to
54 believe he has violated any provision of this part. The respondent shall
55 also have the right to be represented by legal counsel and to examine
56 and cross-examine witnesses. Not later than ten days prior to the
57 commencement of any hearing conducted pursuant to this subsection,
58 the commission shall provide the respondent with a list of its intended
59 witnesses. The commission shall make no finding that there is
60 probable cause to believe the respondent is in violation of any
61 provision of this part except upon the concurring vote of five of its
62 members.

63 (3) In addition to its jurisdiction over persons who are residents of
64 this state, the State Ethics Commission may exercise personal
65 jurisdiction over any nonresident person, or the agent of such
66 nonresident person, who is alleged to have violated the provisions of
67 the code of ethics for public officials or the code of ethics for lobbyists,
68 or has any relevant information related to such alleged violation.

69 (4) Where personal jurisdiction is based solely upon this subsection,
70 an appearance does not confer personal jurisdiction with respect to
71 causes of action not arising from an act enumerated in this subsection.

72 (5) Any nonresident person or the agent of such person over whom
73 the State Ethics Commission may exercise personal jurisdiction, as
74 provided in subdivision (3) of this subsection, shall be deemed to have
75 appointed the Secretary of the State as the person's or agent's attorney
76 and to have agreed that any process in any complaint, investigation or
77 other matter conducted by the commissioner and brought against the
78 nonresident person, or said person's agent, may be served upon the

79 Secretary of the State and shall have the same validity as if served
80 upon such nonresident person or agent personally. The process shall
81 be served upon the Secretary of the State by the officer to whom the
82 same is directed by leaving with or at the office of the Secretary of the
83 State, at least twelve days before any required appearance day of such
84 process, a true and attested copy of such process, and by sending to
85 the nonresident person or agent so served, at the person's or agent's
86 last-known address, by registered or certified mail, postage prepaid,
87 return receipt requested, a like and attested copy with an endorsement
88 thereon of the service upon the Secretary of the State. The Secretary of
89 the State shall keep a record of each such process and the day and hour
90 of service.

91 Sec. 4. Subsection (a) of section 1-93 of the general statutes is
92 repealed and the following is substituted in lieu thereof (*Effective from*
93 *passage*):

94 (a) (1) Upon the complaint of any person on a form prescribed by
95 the commission, signed under penalty of false statement, or upon its
96 own complaint, the commission shall investigate any alleged violation
97 of this part. Not later than five days after the receipt or issuance of
98 such complaint, the commission shall provide notice of such receipt or
99 issuance and a copy of the complaint by registered or certified mail to
100 any respondent against whom such complaint is filed and shall
101 provide notice of the receipt of such complaint to the complainant.
102 When the commission undertakes an evaluation of a possible violation
103 of this part prior to the filing of a complaint by the commission, the
104 subject of the evaluation shall be notified within five business days
105 after a commission staff member's first contact with a third party
106 concerning the matter.

107 (2) In the conduct of its investigation of an alleged violation of this
108 part, the commission shall have the power to hold hearings, administer
109 oaths, examine witnesses, receive oral and documentary evidence,
110 subpoena witnesses under procedural rules adopted by the

111 commission as regulations in accordance with the provisions of
112 chapter 54 to compel attendance before the commission and to require
113 the production for examination by the commission of any books and
114 papers which the commission deems relevant in any matter under
115 investigation or in question. In the exercise of such powers, the
116 commission may use the services of the state police, who shall provide
117 the same upon the commission's request. The commission shall make a
118 record of all proceedings conducted pursuant to this subsection. Any
119 witness summoned before the commission shall receive the witness fee
120 paid to witnesses in the courts of this state. The respondent shall have
121 the right to appear and be heard and to offer any information which
122 may tend to clear him of probable cause to believe he has violated any
123 provision of this part. The respondent shall also have the right to be
124 represented by legal counsel and to examine and cross-examine
125 witnesses. Not later than ten days prior to the commencement of any
126 hearing conducted pursuant to this subsection, the commission shall
127 provide the respondent with a list of its intended witnesses. The
128 commission shall make no finding that there is probable cause to
129 believe the respondent is in violation of this part, except upon the
130 concurring vote of five of its members.

131 (3) In addition to its jurisdiction over persons who are residents of
132 this state, the State Ethics Commission may exercise personal
133 jurisdiction over any nonresident person, or the agent of such
134 nonresident person, who is alleged to have violated the provisions of
135 the code of ethics for public officials or the code of ethics for lobbyists,
136 or has any relevant information related to such alleged violation.

137 (4) Where personal jurisdiction is based solely upon this subsection,
138 an appearance does not confer personal jurisdiction with respect to
139 causes of action not arising from an act enumerated in this subsection.

140 (5) Any nonresident person or the agent of such person over whom
141 the State Ethics Commission may exercise personal jurisdiction, as
142 provided in subdivision (3) of this subsection, shall be deemed to have

143 appointed the Secretary of the State as the person's or agent's attorney
144 and to have agreed that any process in any complaint, investigation or
145 other matter conducted by the commissioner and brought against the
146 nonresident person, or said person's agent, may be served upon the
147 Secretary of the State and shall have the same validity as if served
148 upon such nonresident person or agent personally. The process shall
149 be served upon the Secretary of the State by the officer to whom the
150 same is directed by leaving with or at the office of the Secretary of the
151 State, at least twelve days before any required appearance day of such
152 process, a true and attested copy of such process, and by sending to
153 the nonresident person or agent so served, at the person's or agent's
154 last-known address, by registered or certified mail, postage prepaid,
155 return receipt requested, a like and attested copy with an endorsement
156 thereon of the service upon the Secretary of the State. The Secretary of
157 the State shall keep a record of each such process and the day and hour
158 of service.

159 Sec. 5. Section 1-81 of the general statutes is repealed and the
160 following is substituted in lieu thereof (*Effective from passage*):

161 (a) The commission shall:

162 (1) Compile and maintain an index of all reports, advisory opinions,
163 memoranda filed under the provisions of subsection (f) of section 1-82a
164 and statements filed by and with the commission to facilitate public
165 access to such reports and statements as provided by this part;

166 (2) Preserve advisory opinions permanently; preserve memoranda
167 filed under subsection (f) of section 1-82a, and statements and reports
168 filed by and with the commission for a period of five years from the
169 date of receipt;

170 (3) Upon the concurring vote of five of its members, issue advisory
171 opinions with regard to the requirements of this part, upon the request
172 of any person subject to the provisions of this part, and publish such
173 advisory opinions in the Connecticut Law Journal. Advisory opinions

174 rendered by the commission, until amended or revoked, shall be
 175 binding on the commission and shall be deemed to be final decisions
 176 of the commission for purposes of section 1-87. Any advisory opinion
 177 concerning the person who requested the opinion and who acted in
 178 reliance thereon, in good faith, shall be binding upon the commission,
 179 and it shall be an absolute defense in any criminal action brought
 180 under the provisions of this part, that the accused acted in reliance
 181 upon such advisory opinion;

182 (4) Report annually, prior to April fifteenth, to the Governor
 183 summarizing the activities of the commission; [and]

184 (5) Adopt regulations in accordance with chapter 54 to carry out the
 185 purposes of this part; and

186 (6) The commission may enter into such contractual agreements as
 187 may be necessary for the discharge of its duties, within the limits of its
 188 appropriated funds and in accordance with established procedures.

189 (b) The commission may, within its discretion, employ both an
 190 executive director and a general counsel and any necessary staff,
 191 within available appropriations.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	1-88(e)
Sec. 2	<i>from passage</i>	1-88(b)
Sec. 3	<i>from passage</i>	1-82(a)
Sec. 4	<i>from passage</i>	1-93(a)
Sec. 5	<i>from passage</i>	1-81

Statement of Purpose:

To empower the State Ethics Commission with out-of-state subpoena power, enable the commission to use its discretion to hire both a general counsel and an executive director and to make technical corrections to particular procedures of the commission.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]